

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 03-4467

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UNITED STATES OF AMERICA

v.

ROY ALLEN GREEN,  
Appellant

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
(D.C. Crim. No. 01-cr-00397 )  
District Judge: Honorable Malcolm Muir

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Submitted Under Third Circuit L.A.R. 34.1(a)  
November 16, 2004  
Before: ROTH, SMITH and WEIS, Circuit Judges.  
(Filed December 1, 2004)

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OPINION

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WEIS, Circuit Judge.

The defendant's conviction and sentence on one count of assault with intent to commit murder in violation of 18 U.S.C. § 113(a)(1) was affirmed by this Court at docket number 02-3906. We remanded only for correction of the restitution order which

did not specify the manner and schedule of restitution in the amount of \$1,439.56.

In the defendant's absence, the District Court modified its restitution order to read: "The restitution imposed in this case shall be due immediately, shall be paid through the Clerk, U.S. District Court for disbursement to the Bureau of Prisons, and is payable during the period of incarceration with any balance to be paid within two (2) years of release from custody. All other aspects of the sentence shall remain as previously imposed."

Defendant was represented by counsel during his first appeal, but now proceeds *pro se*, contending that he should have been present when the restitutionary order was amended. He also objects to its entry without consideration of his financial condition and because it does not establish a monthly repayment schedule. Defendant asserts that his total incarceration sentence amounts to sixty-nine years, 10-months, and that he has no assets.

The District Court complied with our direction in the defendant's first appeal. The issue was an administrative matter and did not affect the sentence in any material aspect. Accordingly, the defendant had no right to be present when the amended order was entered. The defendant's financial condition was duly considered when the original order of restitution was entered. That issue was not the subject of our remand.

The motion for appointment of counsel is denied as moot.

Accordingly, the order of the District Court will be affirmed.